

STATE OF IOWA
DEPARTMENT OF COMMERCE
UTILITIES BOARD

IN RE: MIDAMERICAN ENERGY COMPANY	DOCKET NO. RPU-2013-0004
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**ORDER SETTING TEMPORARY RATES
AND APPROVING CORPORATE UNDERTAKING**

(Issued August 15, 2013)

On May 17, 2013, MidAmerican Energy Company (MidAmerican) filed with the Utilities Board (Board) a proposal for a general increase in temporary and final electric rates. MidAmerican proposed a temporary increase pursuant to Iowa Code § 476.6 that would produce additional annual revenue for MidAmerican of approximately \$45.2 million, plus MidAmerican would roll into base rates a \$76 million increase authorized by the Board in Docket No. RPU-2012-0001, for a total annual increase of \$121.2 million in temporary rates. MidAmerican proposed a permanent increase in its annual Iowa retail electric revenue of approximately \$135.6 million to be phased in over three years, with the first \$45.2 million increase proposed to be effective on August 15, 2013, which is the 90-day deadline for the Board's decision on temporary rates. MidAmerican proposed another \$45.2 million increase to be effective on January 1, 2015, and a third and final \$45.2 million increase to be effective on January 1, 2016; these increases are in addition to the \$76 million approved in Docket No. RPU-2012-0001.

On June 4, 2013, the Consumer Advocate Division of the Department of Justice (Consumer Advocate) filed a response to MidAmerican's request for temporary rates. Consumer Advocate said that while it might not be in complete agreement with all of MidAmerican's pro forma adjustments and assumptions included in MidAmerican's temporary revenue requirement calculation, Consumer Advocate has no objection to the temporary rate request and believes the rate level proposed by MidAmerican is consistent with previously-established ratemaking principles and the requirements of Iowa Code § 476.6(10)"a" (2013). No objections or other responses to MidAmerican's temporary rate application were filed.

On June 7, 2013, the Board docketed MidAmerican's filings and established a procedural schedule.

Iowa Code § 476.6(10) (2013) controls the manner in which temporary rates are set. The statute gives the utility two options. First, the utility can place temporary rates into effect without Board review within ten days after the utility files its request, accompanied by a bond or corporate undertaking agreeing to make appropriate refunds if temporary rates exceed final rates. This option has been available since 2003. Second, the utility can ask that the Board determine temporary rates; the Board's decision must be made within 90 days of the utility's request for temporary rates. This method of setting temporary rates has been available since 1983. MidAmerican has chosen this second option, asking the Board to set temporary rates. With respect to the second option, § 476.6(10) provides, in part:

a. Upon the request of a public utility, the board shall, when required by this subsection, grant the public utility temporary authority to place in effect any or all of the suspended rates, charges, schedules, or regulations by filing with the board a bond or other undertaking approved by the board conditioned upon the refund in a manner to be prescribed by the board of any amounts collected in excess of the amounts which would have been collected under rates, charges, schedules, or regulations finally approved by the board. In determining that portion of the new or changed rates, charges, schedules, or regulations to be placed in effect prior to a final decision, the board shall apply previously established regulatory principles and shall, at a minimum, permit rates and charges which will allow the utility the opportunity to earn a return on common stock equity equal to that which the board held reasonable and just in the most recent rate case involving the same utility or the same type of utility service, provided that if the most recent final decision of the board in an applicable rate case was rendered more than twelve months prior to the day of filing of the request for temporary rates, the board shall in addition consider financial market data that is filed or that is otherwise available to the board and shall adjust the rate of return on common stock equity that was approved in that decision upward or downward as necessary to reflect current conditions.

In Northwestern Bell v. Iowa State Commerce Commission, 359 N.W.2d 491, 496

(Iowa 1984), the Iowa Supreme Court interpreted this portion of the statute and stated, in part:

[I]n the 1983 Code the Assembly telescoped the temporary and permanent rate steps into one procedure, evidently to end the prior problem of a utility's placing its new rates in effect in temporary form under bond and then having little motivation to press forward with the permanent rate aspect. The General Assembly has ended the ability of the utility itself to set the temporary rates in the usual situation; the commission sets them and

proceeds to the permanent rates. If instead the utility could obtain judicial review of temporary rates and obtain its desired rates from the courts, as in this case, its motivation to seek permanent rates would be dulled and fulfillment of the legislative scheme would be hampered. To minimize the possibility of harm to the utilities, the legislature started time running from the original filing as to both temporary and permanent rates.

While permanent rates may ultimately be set higher than the Board's temporary rates, by shortening the time for the Board's final decision to ten months and by streamlining the temporary and permanent rate procedure, the General Assembly has demonstrated its desire to minimize utility hardship associated with the time required to complete a general rate review proceeding. The General Assembly provided that the Board's decision on temporary rates cannot be appealed.

The Board, therefore, is directed by statute to permit MidAmerican to collect rates which, at a minimum, allow the company a reasonable opportunity to earn a return on common equity equal to that which was held reasonable in the most recent rate case involving the same utility or same type of utility service, provided the Board's decision was rendered within 12 months prior to MidAmerican's request for temporary rates. The Board does not look at settled rate cases or temporary rate orders in determining the cost of equity pursuant to the statute. Interstate Power and Light Company, "Order Setting Temporary Rates and Approving Corporate Undertaking," Docket No. RPU-95-1 (6/29/1995), p. 10. Because there have been no electric rate cases in the preceding 12 months where return on equity was litigated and determined by the Board, current market data is to be considered.

In addition, the Board is directed to apply established regulatory principles in considering any proposed adjustments. Since the General Assembly directs the Board to establish a temporary rate level by applying established regulatory principles to the filed information, which has not been the subject of a hearing with cross-examination of testimony, it is not appropriate for the Board to make detailed findings of fact at this time. That step will be part of the final rate decision.

For temporary rate purposes, MidAmerican asked for a 10 percent return on equity to apply to its rate base that is not associated with advance ratemaking principles. MidAmerican noted that this is the same rate that Interstate Power and Light Company (IPL) was authorized to earn in its last rate case, Docket No. RPU-2010-0001. However, the IPL decision was issued on January 10, 2011, or more than 12 months prior to MidAmerican's temporary rate request. Therefore, the Board will also consider current market information.

MidAmerican's proposed 10 percent return on equity for temporary purposes is slightly lower than the average approved return on equity by state regulatory commissions in 2012 of 10.15 percent. See, Major Rate Case Decisions, Regulatory Focus, Regulatory Research Associates; *Utility Scope Regulatory Service*, Argus. MidAmerican's witness supports a 10.8 percent return on equity for final rates. While this proposal and the accompanying analysis have not been subject to cross-examination, MidAmerican's proposal for temporary rates is significantly lower. Also, MidAmerican witness Tuning asserted that because MidAmerican is asking for less in

temporary rates than could be supported by the evidence (\$121.1 million as opposed to \$189.6 million), it could be said that MidAmerican will actually be earning a 6.6 return on equity in temporary rates.

For temporary rates, the Board has consistently used a capital structure with 13-month average balances of long-term debt, preferred equity, and common equity. MidAmerican's proposed capital structure uses a 13-month average capital structure ending December 31, 2012, adjusted for known and measurable changes. This is consistent with Board precedent.

MidAmerican's revenue requirement calculation for temporary rates did not include several factors or adjustments proposed for final rates. For example, MidAmerican's proposed depreciation deferral adjustment was not included because the Board has not ruled on the issue in a prior case. Also, two proposed automatic adjustment clauses were excluded because they have not been previously approved by the Board. Even excluding these adjustments, MidAmerican presented documentation supporting a temporary increase of up to \$189.6 million, significantly more than its \$121.2 million request.

MidAmerican said all proposed rate base adjustments were made according to established regulatory principles, such as the requirements that a new asset must be used and useful and placed into service during the test year before it may be included in rate base. Similarly, the adjustments follow the matching principle (each adjustment is a known and measurable change not associated with a different level

of revenue) and the adjustments are based on verifiable information existing at the date of the commencement of the proceeding.

As with the proposed rate base adjustments, MidAmerican said all the proposed temporary rate revenue and expense adjustments were based on established regulatory principles, such as elimination of out-of-period, non-recurring, and non-representative expenses.

Consistent with Board precedent, MidAmerican increased service charges, energy charges, and demand charges by a uniform percentage adjustment for temporary rates purposes. Also, once the \$76 million increase previously approved in Docket No. 2012-0001 is moved to base rates as part of the temporary rates in this case, the revenue adjustment clause approved in Docket No. RPU-2012-0001 will be eliminated; these changes were previously approved by the Board.

While the Board might not agree with each and every adjustment proposed by MidAmerican, the overall revenue requirement calculation proposed by MidAmerican for temporary rates is consistent with established regulatory principles and MidAmerican's temporary rate request will be approved. Based on the information available at this time, any differences that the Board may have with MidAmerican's proposals would not reduce the level of temporary rates substantially below the requested \$121.2 million.

MidAmerican filed a corporate undertaking with its temporary rate application. MidAmerican has agreed to refund any revenues collected through temporary rates,

with interest, which are collected that exceed the revenues that would have been collected using the final rates ultimately approved by the Board. This corporate undertaking is sufficient to ensure payment of any required refund and will be approved.

IT IS THEREFORE ORDERED:

1. Temporary rates based on this order shall become effective as of the date of this order, pursuant to Iowa Code § 476.6(10) (2013). On or before 20 days from the date of this order, MidAmerican Energy Company shall file revised tariff sheets that produce revenue consistent with this order.

2. The corporate undertaking filed by MidAmerican Energy Company is approved.

UTILITIES BOARD

/s/ Elizabeth S. Jacobs

/s/ Nick Wagner

ATTEST:

/s/ Joan Conrad
Executive Secretary

Dated at Des Moines, Iowa, this 15th day of August 2013.